

Senate File 525

S-3096

1 Amend Senate File 525 as follows:

2 1. By striking everything after the enacting clause and
3 inserting:

4 <Section 1. Section 232.2, subsection 39, Code 2021, is
5 amended to read as follows:

6 39. "*Parent*" means a biological or adoptive mother or father
7 of a child; or a father whose paternity has been established by
8 operation of law due to the individual's marriage to the mother
9 at the time of conception, birth, or at any time during the
10 period between conception and birth of the child, by order of a
11 court of competent jurisdiction, by affidavit filed pursuant
12 to section 252A.3A, by a statement made in court and concurred
13 with by the mother of the child admitting paternity, or by
14 administrative order when authorized by state law. "*Parent*"
15 does not include a mother or father whose parental rights
16 have been terminated or a father whose paternity has been
17 disestablished pursuant to section 232.96A or section 600B.41A.

18 Sec. 2. Section 232.84, subsection 2, Code 2021, is amended
19 to read as follows:

20 2. Within thirty days after the entry of an order under
21 this chapter transferring custody of a child to an agency
22 for placement, the agency department shall exercise due
23 diligence in identifying and providing notice to the child's
24 grandparents, aunts, uncles, adult siblings, parents of the
25 child's siblings, and adult relatives suggested by the child's
26 parents, subject to exceptions due to the presence of family or
27 domestic violence.

28 Sec. 3. NEW SECTION. **232.96A Disestablishment of paternity**
29 **— child in need of assistance proceeding.**

30 1. For the purposes of this section:

31 a. "*Established father*" means a person whose paternity of a
32 child has been legally established as a parent.

33 b. "*Disestablished father*" means a person whose paternity of
34 a child has been disestablished pursuant to this section.

35 2. Upon a motion filed by a child subject to a child in

1 need of assistance proceeding, the mother of the child, the
2 established father of the child, or the legal representative
3 of any of these persons, a court with jurisdiction over the
4 child in need of assistance proceeding shall enter an order
5 disestablishing the established father's paternity of the child
6 if all of the following conditions are met:

7 *a.* The child has been adjudicated as a child in need of
8 assistance in an active juvenile court case.

9 *b.* A guardian ad litem has been appointed for the child.

10 *c.* If paternity was established pursuant to section 252A.3A,
11 the motion asserts the signed affidavit was based on fraud,
12 duress, or material mistake of fact.

13 *d.* Notice of the motion is served on both parents of the
14 child in accordance with the rules of civil procedure.

15 *e.* If enforcement services are being provided by the child
16 support recovery unit pursuant to chapter 252B, notice of
17 the motion is served on the child support recovery unit in
18 accordance with the rules of civil procedure.

19 *f.* The results of a blood or genetic test is on record in
20 the child in need of assistance proceeding and concludes that
21 the established father is not the child's biological father.

22 3. An order disestablishing paternity under subsection
23 2 shall include all of the provisions provided in 600B.41A,
24 subsection 4.

25 4. Upon entry of an order disestablishing paternity under
26 subsection 2, the clerk of court shall send a copy of the order
27 to the disestablished father at the disestablished father's
28 last known address and to the clerk of the district court.

29 5. Upon request by the child support recovery unit or a
30 disestablished father and without the need for a prior court
31 order, the clerk of court shall disclose to the child support
32 recovery unit a copy of an order entered under subsection 2.

33 6. All costs of testing, fees for a child's guardian ad
34 litem, and court costs shall be paid by the person moving to
35 disestablish paternity pursuant to subsection 2.

1 7. Participation of the child support recovery unit created
2 in section 252B.2 in an action brought under this section shall
3 be limited as follows:

4 *a.* The unit shall only participate in actions if services
5 are being provided by the unit pursuant to chapter 252B.

6 *b.* When services are being provided by the unit under
7 chapter 252B, the unit may enter an administrative order for
8 blood and genetic tests pursuant to chapter 252F.

9 *c.* The unit is not responsible for or required to provide
10 for or assist in obtaining blood or genetic tests in any case
11 in which services are not being provided by the unit.

12 *d.* The unit is not responsible for the costs of blood or
13 genetic testing conducted pursuant to an action brought under
14 this section.

15 *e.* Pursuant to section 252B.7, subsection 4, an attorney
16 employed by the unit represents the state in any action
17 under this section. The unit's attorney is not the legal
18 representative of the mother, the established father, or the
19 child in a child in need of assistance proceeding under this
20 subchapter.

21 Sec. 4. Section 232.102, subsection 1, Code 2021, is amended
22 by striking the subsection and inserting in lieu thereof the
23 following:

24 1. *a.* After a dispositional hearing, the court may enter an
25 order transferring the legal custody of the child to one of the
26 following for purposes of placement:

27 (1) A parent who does not have physical care of the child.

28 (2) Any other relative of the child.

29 (3) A person with whom the child had a significant, positive
30 relationship at the time of the removal.

31 (4) Any other suitable person.

32 (5) A child-placing agency or other suitable private
33 agency, facility, or institution which is licensed or otherwise
34 authorized by law to receive and provide care for the child.

35 (6) The department of human services. If the child is

1 placed in a juvenile shelter care home or with an individual
2 or agency as defined in section 237.1, the department shall
3 assign decision-making authority to the juvenile shelter care
4 home, individual, or agency for the purpose of applying the
5 reasonable and prudent parent standard during the child's
6 placement.

7 *b.* A court shall not order placement of a child with a
8 nonrelative without a specific finding that placement with a
9 parent or any other relative of the child pursuant to paragraph
10 "a", subparagraph (1) or (2), is inappropriate for placement of
11 the child and providing reasons for such a finding.

12 *c.* If the child is sixteen years of age or older, the
13 order shall specify the services needed to assist the child in
14 preparing for the transition from foster care to adulthood. If
15 the child has a case permanency plan, the court shall consider
16 the written transition plan of services and needs assessment
17 developed for the child's case permanency plan. If the child
18 does not have a case permanency plan containing the transition
19 plan and needs assessment at the time the order is entered,
20 the written transition plan and needs assessment shall be
21 developed and submitted for the court's consideration no later
22 than six months from the date of the transfer order. The
23 court shall modify the initial transfer order as necessary to
24 specify the services needed to assist the child in preparing
25 for the transition from foster care to adulthood. If the
26 transition plan identifies services or other support needed
27 to assist the child when the child becomes an adult and the
28 court deems it to be beneficial to the child, the court may
29 authorize the individual who is the child's guardian ad litem
30 or court-appointed special advocate to continue a relationship
31 with and provide advice to the child for a period of time
32 beyond the child's eighteenth birthday.

33 Sec. 5. NEW SECTION. 232.121 Reinstatement of parental
34 rights.

35 1. A child, the child's guardian ad litem, the department,

1 or an agency or person to whom guardianship and custody of the
2 child has been transferred following termination of parental
3 rights of a parent under section 232.117, may petition the
4 juvenile court to reinstate the parental rights of the child's
5 former parent if all of the following circumstances exist,
6 making the child an eligible child for purposes of this
7 section:

8 *a.* The child was previously found to be a child in need of
9 assistance under this chapter.

10 *b.* The child has not achieved the goals of the child's case
11 permanency plan, and is not likely to do so.

12 *c.* The child does not have a permanent placement or a
13 planned permanent placement, is not subject to a permanent
14 guardianship, is not in an adoptive placement, is not likely
15 to be adopted within a reasonable period of time, and other
16 permanency options have been exhausted.

17 *d.* The child's former parent's parental rights were
18 terminated in a proceeding under this chapter, but the
19 termination of the parent-child relationship was not based on a
20 finding of sexual abuse, a near child fatality, a suspicious
21 child fatality, or an incident of egregious abuse or neglect
22 against a child as evidenced by the aggravated circumstances
23 specified pursuant to section 232.102, subsection 12,
24 paragraphs "d" through "g".

25 *e.* Two years have passed since the final order of
26 termination of parental rights was entered.

27 *f.* The child is at least twelve years of age when the
28 petition is filed, or is younger than twelve years of age when
29 the petition is filed but is part of a sibling group including
30 a child for whom reinstatement is being sought and that child
31 meets the other conditions for reinstatement.

32 2. *a.* If a child meets the criteria of an eligible
33 child under subsection 1, the child's guardian ad litem,
34 the department, or an agency or person to whom guardianship
35 and custody of the child has been transferred under section

1 232.117, shall notify the child of the child's right to
2 petition the court for the reinstatement.

3 *b.* If the former parent whose rights were previously
4 terminated contacts the child's guardian ad litem, the
5 department, or the agency or other person to whom guardianship
6 and custody of the child has been transferred under section
7 232.117, and the child is eligible pursuant to subsection 1,
8 the guardian ad litem, department, agency, or other person
9 shall notify the eligible child of the child's right to
10 petition the court for the reinstatement.

11 3. If a child seeking to petition for reinstatement of
12 parental rights under this section does not have a guardian
13 ad litem or attorney, the court shall appoint a guardian ad
14 litem and counsel for the child at no cost to the child. If a
15 guardian ad litem has previously been appointed for the child
16 in a proceeding under this chapter, the same person may serve
17 both as the child's counsel and as guardian ad litem. However,
18 the court may appoint a separate guardian ad litem if the same
19 person cannot properly represent the legal interests of the
20 child as legal counsel and also represent the best interest of
21 the child as guardian ad litem.

22 4. The petition must be signed by the child unless good
23 cause is shown as to why the child is unable to do so. The
24 former parent for whom reinstatement of parental rights is
25 sought must consent in writing to the petition.

26 5. The court shall hold a threshold hearing to consider
27 the former parent's apparent interest in the reinstatement of
28 parental rights. At a minimum, the threshold hearing shall
29 determine all of the following:

30 *a.* Whether the former parent has remedied the former
31 parent's deficits as provided in the record of the prior
32 termination proceedings and prior termination order.

33 *b.* Whether the former parent has participated in an
34 assessment based on evidence-based criteria that supports the
35 reinstatement of the parent-child relationship as being in the

1 best interest of the child.

2 6. If, after a threshold hearing to consider the former
3 parent's apparent fitness and interest in the reinstatement
4 of parental rights, the court finds by a preponderance of the
5 evidence that the best interest of the child may be served by
6 the reinstatement of parental rights, the court shall order
7 that a hearing on the merits of the petition be held.

8 7. Before a hearing is held on the merits of the petition,
9 notice shall be provided to the child's guardian ad litem, the
10 department, the agency or other person to whom guardianship
11 and custody of the child has been transferred under section
12 232.117, the child's attorney, the child, the child's former
13 parent whose parental rights are the subject of the petition,
14 any parent whose rights have not been terminated, the child's
15 current foster parent, the child's relative caregiver, and the
16 child's tribe, if applicable. Notice shall be provided in the
17 same manner as in section 232.37.

18 8. The court shall conditionally grant the petition if the
19 court finds by clear and convincing evidence that the child has
20 not been adopted, has not achieved the goals of the child's
21 case permanency plan, and is not imminently likely to achieve
22 such goals, and that reinstatement of parental rights is in the
23 child's best interest. In determining whether reinstatement is
24 in the child's best interest the court shall consider, but is
25 not limited to considering, all of the following:

26 a. Whether the former parent whose rights are to be
27 reinstated is a fit parent and has remedied the former parent's
28 deficits as provided in the record of the prior termination
29 proceedings and prior termination order.

30 b. Whether the former parent whose rights are to be
31 reinstated understands the legal obligations, rights, and
32 consequences of the reinstatement of parental rights and is
33 willing and able to accept such obligations, rights, and
34 consequences.

35 c. The age and maturity of the child, and the ability of the

1 child to express the child's preference.

2 *d.* Whether the reinstatement of parental rights will present
3 a risk to the child's health, welfare, or safety.

4 *e.* Other material changes in circumstances, if any, that may
5 have occurred which warrant the granting of the petition.

6 9. In determining whether the child has or has not achieved
7 the goals of the child's case permanency plan or whether the
8 child is imminently likely to achieve the goals of the child's
9 case permanency plan, the department, or the agency or other
10 person to whom guardianship and custody of the child has been
11 transferred under section 232.117, shall provide the court, and
12 the court shall review, information related to any efforts to
13 achieve the goals of the case permanency plan including efforts
14 to achieve adoption or a permanent placement.

15 10. *a.* If the court conditionally grants the petition under
16 subsection 8, the case shall be continued for six months and a
17 temporary order of reinstatement entered. During this period,
18 the child shall be placed in the custody of the former parent.
19 The department or agency shall develop a case permanency plan
20 for the child reflecting reunification and shall provide
21 transition services to the family, as appropriate.

22 *b.* If the child must be removed from the former parent due
23 to allegations of abuse or neglect prior to the expiration
24 of the conditional six-month period, the court shall dismiss
25 the petition for reinstatement of parental rights if the court
26 finds the allegations have been proven by a preponderance of
27 the evidence.

28 11. At the end of the six-month period, the court shall hold
29 a hearing and order one of the following:

30 *a.* If the placement with the former parent has been
31 successful, the court shall enter a final order of
32 reinstatement of parental rights which shall restore all
33 rights, powers, privileges, immunities, duties, and obligations
34 of the parent as to the child, including those relating
35 to custody, control, and support of the child. The court

1 shall vacate the dispositional order in the child in need
2 of assistance proceeding and direct the clerk's office to
3 provide a certified copy of the final order of reinstatement of
4 parental rights to the parent at no cost.

5 *b.* If the placement with the former parent has not been
6 successful, the court shall dismiss the petition and the
7 child's case permanency plan shall remain in effect.

8 12. A proceeding to reinstate parental rights is a separate
9 action from the termination of parental rights proceeding
10 and does not vacate or otherwise affect the validity of the
11 original termination of parental rights order. An order
12 granted under this section reinstates the former parent's
13 rights to the child. The reinstatement is a recognition that
14 the situation of the parent and child has changed since the
15 time of the termination of parental rights and reunification
16 is now appropriate.

17 13. A parent whose rights are reinstated under this
18 section shall not be liable for any child support owed to the
19 department or costs of other services provided to a child for
20 the time period from the date of termination of parental rights
21 to the date parental rights are reinstated.

22 14. This section shall apply to any eligible child who is
23 under the jurisdiction of the juvenile court at the time of the
24 hearing regardless of the date parental rights were terminated.

25 15. The state, the department, or an agency or other person
26 or an employee of such entities is not liable for civil damages
27 resulting from any act or omission in the provision of services
28 under this section unless the act or omission constitutes gross
29 negligence. This section does not create any duty and shall
30 not be construed to create a duty where none exists. This
31 section does not create a cause of action against the state,
32 the department, an agency, another person, or the employees of
33 such entities concerning the original termination.>

34 2. Title page, by striking lines 1 through 3 and inserting
35 <An Act relating to child welfare including the transfer of

1 legal custody of a child, notice of transfer of custody to
2 a child's adult relatives, judicial proceedings in child
3 in need of assistance cases, the reinstatement of parental
4 rights of a former parent under certain circumstances, and the
5 disestablishment of paternity under certain circumstances.>

JEFF EDLER